



17.0 FINAL PERMIT DECISION

Once the Response to Comments is complete ([Chapter 16.0](#)), the next step is to prepare the final permit for signature, supporting documents, and transmittal letters.

Final Permit

The draft permit prepared in [Chapter 13.0](#) Permit Decisions, and public noticed in [Chapter 15.0](#) Public Participation should have been updated in response to comments received during the public comment period ([Chapter 16.0](#)). Pursuant to DTSC Permit Program Guidance Document No. 92-1, all DTSC permits are to be written for a period of ten years.

The last task related to preparing the final permit is to proofread the document again (independently by two different permit writers) to comb out any typographical or other errors that might have crept into the document during final editing. Look for typos, spelling errors, misnumbering, missing paragraphs, missing pages, misnumbering of pages, wrong words, and other such editing errors. The permit writer is, in essence, the editor-in-chief of the final permit, ensuring it is perfect. Anything less than perfect is unacceptable. The permitting Branch Chiefs have been authorized to sign final permits.

Supporting Documents

(1) CEQA Notice of Determination. CEQA Guidelines sections 15075 and 15094 require the lead agency to file a Notice of Determination at the conclusion of the Negative Declaration and Environmental Impact Report process (essentially, at the end of the public comment period and after a final Negative Declaration or EIR has been certified by the lead agency). As a state agency, DTSC always files its notice with the Governor's Office of Planning and Research (OPR). [Chapter 8.0](#) (CEQA) notes that all DTSC documents are to be forwarded to Guenther Moskat (CALNET 492-8955) chief of DTSC Planning and Analysis Unit at DTSC headquarters for subsequent forwarding to OPR.

The question arises about when to file this form. The Office of Legal Counsel (OLC) recommends that the form not be filed until after the final permit has been signed, issued, and all appeals have been exhausted. In most cases, there will not be any appeals and the form can be filed at the expiration of the appeal period, which is 30 calendar days following the date the notice of the final decision was served to the applicant and each person who submitted written comments or requested notice of the final permit determination. (See Title 22, Cal. Code of Regs., section 66271.14.) Note that the 30 days does not start when the permit was signed by the regional office Branch Chief. It may take several days for all required persons to be served the required notice. If there are appeals filed, and since the appeal process could lead through multiple hearings and court proceedings, the form should not be filed until after the legal office agrees that all appeals have been exhausted. The Notice of Determination form should be signed by the same Branch Chief that signed the final permit, or the current permitting Branch Chief for the regional office issuing the final permit.

(2) Notice of Final Determination. Title 22, Cal. Code of Regs., section 66271.14 requires that the applicant, each person providing written comments, and each person requesting in writing to be notified of the final permit decision, to be served with a notice of the final permit determination. DTSC has interpreted this to mean that each of these persons must be mailed a copy of the notice using the certified mail return-receipt-requested service of the U. S. Post Office. The Permit Advisory Number PA97-5, advises DTSC permitting staff on how to notify interested parties regarding final permit determination and appeal procedures (see Appendix 17.1).

The regulations (Title 22, Cal. Code of Regs., section 22271.14(a)) do not specify what has to be in the final permit determination notice, with the exception that it must contain a reference to the procedures

for appealing a decision on a permit or for contesting a decision to terminate a permit.

Transmittal Letters

The original signature copy of the final permit must be sent to the applicant. If the owner/operator is different than the applicant, the owner/operator must be sent a copy of the permit. Any other persons requesting a copy of the permit during the comment period may also be sent a copy. If the permit is a RCRA-equivalent permit, one copy must be sent to the U. S. EPA. Copies should also be placed in the Administrative Record, main administrative file, and the permit writer's working file.

KEY QUESTIONS

Questions to be considered during the final permit decision are:

Has there been an appeal filed? If so, has OLC been notified and instructions received how to respond to the appeal?

Is the final permit perfect? If not, fix it before it is signed and sent out.

Have all required persons been notified of the final permit decision by certified mail, return-receipt-requested?

REQUIRED OUTPUTS

Expected outputs from this chapter are:

- c A list of everyone to be served departmental notice of the final permit determination: the applicant, all persons providing written comment, and all persons requesting in writing to receive the final permit determination notice.
- c The Notice of Final Determination mailed, certified mail return-receipt-requested, to everyone on the above list.
- c The final permit, signed and the original signature copy sent to the applicant.
- c Transmittal letters for the final permit to: the applicant, the owner/operator, and any persons requesting a copy of the final permit.

APPLICABLE REGULATIONS AND STATUTES

State Laws and Regulations:

Cal. H&S Code

25199.6 Requires DTSC to make a final permit determination within the time periods specified.

Cal. Code of Regs., tit. 22

66271.14 Issuance and Effective Date of Permit

66271.15 Stays of Contested Permit Conditions

66271.18 Appeal of Permit Decisions

66271.19 Computation of Time

Federal Laws and Regulations:

Other Laws and Regulations:

POLICIES

DTSC Policies:

DTSC Permit Program Guidance Document No. 92-1, which specifies that all DTSC permits are to be issued for a period of 10 years.

The Permit Advisory Number PA97-5, advises DTSC permitting staff on how to notify interested parties regarding a final permit determination appeal procedures (see Appendix 17.1).

EPA Policies:

Other Policies:

INSTRUCTIONS TO APPLICANTS

Handouts to be Given to Applicants:

Examples to be Given to Applicants:

CEQA CONSIDERATIONS

The NOD guidance memorandum included in Appendix 5.0-6 requires that certain information accompany the Notice of Determination package. The permit writer should be aware of the procedures for filing of Notices of Determination to avoid undue delays in processing, filing and final permit approval.

LEGAL CONSIDERATIONS

INTERAGENCY AGREEMENTS & MOUs

COORDINATION WITH OTHERS

Other DTSC Units:

Environmental/Legislative/Industry Groups:

Other Agencies:

Special Requests:

STEP-BY-STEP PROCEDURES

Flow Charts:

Checklists:

TECHNICAL REFERENCES

EXAMPLES OF COMPLETED WORK PRODUCTS

TIMELINE AND PLANNING

Permit Processing Chart:

Workload Standards:

Statutory & Other Deadlines:

WP File Name: 5/CH1700_p.man

List of Examples:

List of Appendices:

17.1 The Permit Advisory Number 97-5.

List of References: